

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

ASHEVILLE DIVISION

CARYN DEVINS STRICKLAND,)	
)	
<i>Plaintiff,</i>)	
)	
v.)	Civil No. 1:20-cv-00066-WGY
)	
UNITED STATES, <i>et al.</i>,)	
)	
<i>Defendants.</i>)	

MOTION TO SEAL (ECF No. 270)

Pursuant to Local Rule 6.1 and Federal Rule of Civil Procedure 26(b)(5)(B), Plaintiff respectfully requests leave to file under seal her unredacted memorandum of law in support of her “Motion for Sanctions and Disqualification of Defendants’ Counsel.” Plaintiff’s redacted motion and accompanying exhibits are filed at ECF No. 270.

The basis for this motion to seal is that the memorandum of law references privileged information, which this Court previously ordered to be filed under seal. ECF No. 233. On May 15, 2023, Defendants moved to seal their unredacted “Motion to Strike Privilege Assertion and to Compel Plaintiff’s Deposition Testimony” under Local Rule 6.1 and Fed. R. Civ. P. 26(b)(5)(B). ECF No. 213, at 1. As explained in Defendants’ motion to seal, Rule 26(b)(5)(B) provides that “[i]f information produced in discovery is subject to a claim of privilege,” a party “may promptly present the information to the court under seal for a determination of the claim.” *Id.* at 4. The rule thus “expressly permit[s] a party who has received information that is subject to a claim of privilege ‘to present the information to the court *under seal* for a determination of the claim.’” *Id.* (quoting Fed. R. Civ. P. 26(b)(5)(B) (emphasis added)).

On May 19, 2023, this Court granted Defendants' motion to seal. Entry Order Dated May 19, 2023. Thereafter, Defendants filed their "Motion to Strike Privilege Assertion and to Compel Plaintiff's Deposition Testimony" under seal. ECF No. 219. On June 1, 2023, this Court granted Defendants' motion to strike Plaintiff's privilege assertion in part and denied it in part, thus recognizing that the material is privileged. ECF No. 233.

Plaintiff respectfully incorporates by reference Defendants' arguments in support of sealing pursuant to Local Rule 6.1 and Fed. R. Civ. P. 26(b)(5)(B). This Court's order denying Defendants' motion to strike, in part, and allowing Plaintiff to assert privilege over the material confirms that the material is privileged. ECF No. 233. Further, this Court did not allow Defendants' request to unseal their "Motion to Strike Privilege Assertion and to Compel Plaintiff's Deposition Testimony" if the privilege assertion were denied, which provides additional confirmation that Plaintiff's privilege assertion was upheld. ECF No. 213, at 4. Because Plaintiff's motion contains privileged material, sealing Plaintiff's motion "would be consistent with the Federal Rules." *Id.*

Prior to filing this motion, Plaintiff's counsel conferred with Defendants' counsel as required by Local Rule 7.1. Defendants' counsel stated the following: "Regarding the motions to redact and file under seal, we cannot provide a position without knowing specifically what information Plaintiff wants to file under seal."

This the 27th day of September, 2023.

Respectfully Submitted,

/s/ Cooper Strickland

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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of September, 2023, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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